

## REMARKS

This Amendment is responsive to the Office Action of July 14, 2006. In the application claims 15 - 22 are pending. Applicant would initially like to thank the examiner for the indication of allowable subject matter in claims 18 - 21. Claims 15 - 17 stand rejected under 35 U.S.C. 102 as anticipated in view of U.S. Patent No. 6,097,991 to Hamel et al. Claim 22 stands rejected under 35 U.S.C. §103 as being obvious over U.S. Patent No. 5,911,121 to Andrews in view of U.S. Patent No. 5,437,044 to Hohner. Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

### **Objections To The Claims**

Applicant has reviewed the Office Action's objections to the Claims and has amended the claims to address those issues. It is respectfully submitted that the amendments overcome the pending objections.

### **Anticipation Under 35 U.S.C. §102**

The Federal Circuit has stated on multiple occasions that in order to reject a claim under Section 102, there must be identity of invention. *See Akzo N.V. v. US Intern. Trade Comm'n*, 1 U.S.P.Q. 2d 1241, 1245 (Fed. Cir. 1986) ("Under 35 U.S.C. § 102, anticipation requires that each and every element of the claimed invention be disclosed in the prior art"), cert. denied, 482 U.S. 909 (1987). Moreover, an anticipatory reference must be enabling and teach all aspects of the claimed invention. *Scripps Clinic & Research v. Genetech Inc.*, 18 U.S.P.Q. 2d 1001, 1010 (Fed. Cir. 1991) ("Invalidity for anticipation requires that all of the elements and limitations of the claim are found within a single prior art reference . . . there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention."). The initial burden is on the Patent Office to show that identity of invention

exists. *In re Warner*, 154 U.S.P.Q. 173, 177 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968).

Claims 15 - 17

Claim 15 stands rejected as being anticipated by Hamel. Hamel discloses an automatic identification of features associated with an audio system based on the selection of an associated bezel. [Abstract]. "It is desirable to have an audio system which allows for various models with the same hardware, while allowing for different software base features to be changed for a given model of audio system based upon the corresponding model of bezel selected." [Col. 1, ll. 49 - 53]. Tabs on the bezel are recognized by receptors on the audio device that communicate the identification of the bezel to the processor, which loads corresponding software programs stored in memory that are applicable to the bezel's configuration.

Claim 15 previously included the limitation of "identification means for indicating the assigned operational function given to each of the input mechanisms." In rejecting this claim under §102, the Patent Office responded that this feature was taught by "a finger pad contact indicates to the microcomputer the assigned operational function given to that particular finger pad." Office Action, page 4. To better characterize the meaning of the claimed feature, Applicant has amended the claim to recite "an electronic display" as taught in the specification at pages 9-10.

"allow the microprocessor in an audio component to automatically identify the software routines needed for providing features in correspondence with the buttons on a particular bezel based upon the particular bezel assembled to the audio component." [col. 2, ll. 5 - 10].

It should be noted that the object of the Hamel device is to conform an audio component automatically with a recognized bezel using pre-stored program routines, and thus there is no post-assignment "identification means" necessary because the particular

bezel is "unique" to the assigned functions. Thus, any suggestion to employ such identification means would be unnecessary and contrary to the teachings of the cited reference.

Further, Claim 15 calls for a first set of input mechanisms and a second set of input mechanisms, where the first set has common characteristics that differ from the common characteristics of the second set of input mechanisms. The Office Action states that Hamel et al. teaches a "second finger pad that is differ (sic) from the first finger pad" but fails to identify or articulate the different characteristics of the second finger pad that are different from the first finger pad. With reference to Figure 3 of Hamel, one cannot distinguish any differences between the finger pads and the reference fails to identify any. Accordingly, the rejection of claim 15 is under 35 U.S.C. §102 is improper for yet a second reason. Because Claim 15 is patentable over Hamel, Applicant submits that dependent claims 16 and 17 are similarly patentable for the reasons set forth above.

#### Rejections under 35 U.S.C. § 103

Claim 22 presently stands rejected under 35 U.S.C. §103 as being obvious over Andrews in view of Hohner, U.S. Patent No. 5,437,044. In order to reject a claim for obviousness, three criteria must be met. To establish a prima facie case of obviousness, the Office Action must achieve three objectives: (1) The Office Action must demonstrate suggestion or motivation, either in the references themselves or in the prior art, to modify the reference as suggested by the Office Action or to combine the references as suggested by the Office Action; (2) The Office Action must establish that the proposed combination has a reasonable expectation of success; and (3) The Office Action must demonstrate that each claim limitation in each claim is taught or suggested in the cited references.

M.P.E.P. §706.02(j).

Claim 22 calls for a radio control device having a microcomputer and a data link connecting the radio control device's microcomputer with an external computer, and means for reassigning functions of command input devices using said data link. The

Office Action concedes that the primary reference, Andrews, fails to teach either of the above-identified claim limitations. [Office Action, Page 5]. To overcome the absence of any teaching of these claimed features in Andrews, the Office Action seeks to combine the teachings of Hohner which purports to disclose a virtual operating unit for microprocessor-controlled devices. As the Office Action points out, Hohner allows control of an external computer via a data port "for the purpose of switching over between programming mode and the operating mode which enable modifications in the program quicker and easier." [Office Action, Page 5].

The Office Action then concludes that it would have been obvious to incorporate the external computer and controller of Hohner with the device of Andrews "because it would provide for the purpose of providing switching over between programming mode and the operating mode which enable modifications in the program quicker and easier." [Office Action, Page 6]. Even if the Office Action is arguing that the proposed combination could be theoretically combined and assuming *arguendo* that the Office Action could find a motivation for combining the references, there is still no teaching or suggestion that demonstrates the proposed combination includes "means for reassigning functions of said command input devices using said data link." [Claim 22]. This feature is not taught nor suggested in either reference, negating a *prima facie* case of obviousness under the MPEP standards. Rather, the most that the Office Action can be said to argue is that the references could be combined to achieve the claimed feature. However, "although a prior art device may be *capable* of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." **MPEP §2143.01.** The Office Action fails to point to any suggestion or motivation in the reference to show reassigning command input devices through a data link would have been an obvious modification of the Andrews device, particularly where there is no discussion or rationale for the "reassigning" of input devices in Andrews once the device is programmed. Accordingly, Applicants respectfully submit that the rejection based on 35 U.S.C. §103 is improper and should be withdrawn.

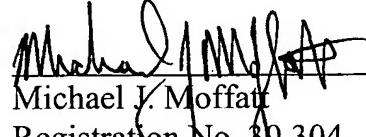
Applicant believes that the pending claims as amended overcome the Office Actions' objections and patentably distinguish over the art of record, and respectfully request early notification of same. If the examiner believes that a telephone interview will further the merits of the prosecution, the examiner is cordially invited to contact the undersigned at the number below.

If any fees are due, please charge our Deposit Account No. 21-0800.

Respectfully submitted,

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